REMARKS

A Supplemental Information Disclosure Statement is submitted herewith.

In the Office Action dated January 11, 2006, claims 2, 3, 8, 19, 20, 40-43, 46, and 49-51 were rejected under 35 U.S.C. § 103 over U.S. Patent Application Publication No. 2002/0048268 (Menon) in view of U.S. Patent No. 6,512,756 (Mustajarvi); claims 9 and 10 were rejected under § 103 over Menon in view of Mustajarvi and U.S. Patent No. 6,763,007 (La Porta); and claims 21 and 44 were rejected under § 103 over Menon in view of Mustajarvi and U.S. Patent No. 6,320,873 (Nevo).

Independent claim 2 recites a serving GPRS support node (SGSN) that has an interface to communicate with a base station system in a cell site over a Gb network, and a controller to transmit and receive data through the interface over the Gb network with the base station system according to a connectionless, packet-based protocol.

As conceded by the Office Action, Menon does not disclose a Gb network. 1/11/2006 Office Action at 3. However, the Office Action cited Mustajarvi as disclosing such a Gb network. *Id.*

It is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 2 for at least the reason that no motivation or suggestion existed to combine the teachings of Menon and Mustajarvi to achieve the claimed invention. Menon describes two general embodiments, depicted in Figs. 1 and 5. In Fig. 1, a CPRU (customer premise radio unit) 25 communicates with a base station 30 over an air interface. In turn, the base station 30 communicates with a WARP (**W**ireless **A**djunct InteRnet Platform) 32, which is connected to an access router 35. In Fig. 5 of Menon, a CPRU is linked to the base station 101 over an air interface, and the base station 101 is linked to an access router. Although Menon does refer to GPRS, it is noted that Menon clearly does <u>not</u> contemplate the use of a Gb network. Instead, Menon teaches that GPRS can be used between the CPRU and a base station (*see, e.g.,* ¶¶ [0075], [0210], [0251], [0257], [0267], [0362], and [0392]). Menon clearly does not disclose or even remotely suggest that the interface between the WARP and access router (Fig. 1) or the base station and access router (Fig. 5) employs a GPRS-based network, such as the Gb network.

The Office Action makes much of the fact that Fig. 5 of Menon is "similar" to structure disclosed by Fig. 1 of Mustajarvi in the obviousness rejection. However, the Office Action ignored the more detailed view of the high level block diagram of Fig. 5, depicted in Fig. 24, where the various layers of the BTS and access router are shown. *See* Menon, ¶ [0292] (indicating that Fig. 24 shows the packet data signaling plane architecture 325 of the system 100 depicted in Fig. 5). The Office Action also ignored the detailed depiction of the layers of the BSS and SGSN in Fig. 2 of Mustajarvi. The detailed views of Fig. 24 of Menon and Fig. 2 of Mustajarvi are clearly quite different.

Clearly, there are no layers in Fig. 24 of Menon that would even provide any suggestion that a Gb interface between the BTS and access router can be used. In Fig. 2 of Mustajarvi, the Gb interface between the BSS and SGSN is a traditional Frame Relay interface with no mention of a connectionless, packet-based protocol for the Gb interface. Thus, the suggestion in the Office Action that Menon and Mustajarvi are "similar" is clearly erroneous.

The Office Action further asserted that the access router in Fig. 5 of Menon provides similar functions as the SGSN in a GPRS system. 1/11/2006 Office Action at 8. However, the Office Action ignores the specific teachings that are shown in the details of Menon, particularly Fig. 24 in connection with Fig. 5. The interface between BTS and the access router taught by Menon is clearly quite different from the Gb network employed in the claim.

The teachings of Menon would actually have led a person of ordinary skill in the art to use a network different from a GPRS-based network, such as the Gb network, between the WARP and access router or between the base station and access router. Specifically, the network between a WARP and access router or between a base station and access router in Menon is not a GPRS-based network, a point recognized by the Office Action. In ¶ [0081], Menon teaches that bearer voice messages are transmitted between a CPRU and a WARP using GSM/GPRS protocols. Significantly, this paragraph of Menon also states that the WARP "interworks the GSM/GPRS bearer voice messages to VoIP (voice IP) based messages for transmission toward the network, *i.e.*, towards switched circuit network 50." There is no indication whatsoever that the link between the WARP and the access router or the link between the base station and the

access router is a GPRS-based interface. In fact, Fig. 21 of Menon shows the protocol layers between the WARP and an SMP – there are no layers for a Gb interface in Fig. 21. As noted above, Fig. 24 of Menon shows the interface between a base station and an access router – again, there are no layers that correspond to a Gb interface. Fig. 25 shows the interface between a WARP and access router; similarly, there are no layers corresponding to a Gb interface in Fig. 25. Thus, it is clear that Menon would have suggested a different type of interface (that is, a non-GPRS based interface) between the access router and the WARP or base station.

The Office Action cited two cases to support the obviousness rejection: *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); and *In re Jones*, 958 F.2d 347, 21 U.S.P.Q.2d 194 (Fed. Cir. 1992). Note that *In re Fine* holds that the "PTO has the burden under section 103 to establish a *prima facie* case of obviousness." *In re Fine*, 837 F.2d at 1074. "It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." *Id.* The Office Action has failed to do so in this case. Moreover, it is clear that the Office Action has engaged in using impermissible hindsight to piece together elements of un-related references, in this case Menon and Mustajarvi. As held by *In re Fine*, "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *Id.* at 1075.

In fact, the comparison of Fig. 5 of Menon to Fig. 1 of Mustajarvi performed by the Office Action is an example of generalization specifically criticized by the *In re Jones* case. As stated by *In re Jones*, "this court has previously stated that generalization is to be avoided insofar as specific structures are alleged to be *prima facie* obvious one from the other." *In re Jones*, 958 F.2d at 350. As stated by *In re Jones*, "[b]efore the PTO may combine the disclosures of two or more prior art references in order to establish *prima facie* obviousness, there must be some suggestion for doing so, found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art." *Id.* at 351. Here, the teachings of Menon and Mustajarvi are clearly disparate, with one proposing a non-Gb based network between a BTS and an access router, while

the other teaches use of a Frame Rrelay-based Gb interface, rather than an interface that is based on a connectionless, packet-based protocol.

Thus, a person of ordinary skill in the art looking to the teachings of Menon and Mustajarvi would have been taught one of two things: (1) an IP interface over a *non*-Gb network can be provided between a base station or WARP and an access router; or (2) a *Frame Relay Gb* network can be used between a base station and an SGSN. This person of ordinary skill in the art would not have been motivated to modify the teachings of either Menon or Mustajarvi to achieve a Gb network that is according to a connectionless, packet-based protocol. Therefore, in view of the foregoing, it is respectfully submitted that there existed no motivation or suggestion to combine Menon and Mustajarvi in the manner proposed by the Office Action, and that therefore a *prima facie* case of obviousness cannot be established with respect to claim 2.

Independent claims 42, 46, 50, and 51 are similarly allowable over the asserted combination of Menon and Mustajarvi.

Independent claim 19 is also allowable over the asserted combination of Menon and Mustajarvi because the cited references do not disclose an SGSN that has an interface having a packet-switched element to manage communication over a network between the SGSN and at least a base station system, where the packet-switched element comprises an IP element. Although Mustajarvi teaches the use an SGSN, it clearly contemplates that the network between the SGSN and the base station system is a *Frame Relay* (connection-oriented) network. While Menon states that the wireless interface between the CPRU and base station can be according to the GPRS protocol, Menon clearly contemplates that the access router used is *not* an SGSN. Therefore, there existed no motivation or suggestion to combine the teachings of Menon and Mustajarvi and thus, a *prima facie* case of obviousness has not been established with respect to claim 19.

Dependent claims are allowable for at least the same reasons as corresponding independent claims. In view of the amendment of claim 2, it is respectfully submitted that the obviousness rejection of claims 9 and 10 over Menon and La Porta has been overcome. Also, in view of the allowability of base claims over the asserted combination of Menon and Mustajarvi, it is respectfully submitted that the obviousness rejection of claims 21 and 44 over Menon, Mustajarvi, and Nevo has been overcome.

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees, including extension of time fees, and/or credit any overpayment to Deposit Account No. 20-1504 (NRT.0027US).

Respectfully submitted,

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Dan C. Hu, Reg. No. 40,025
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
Telephone: (713) 468-8880
Facsimile: (713) 468-8883